

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of)
)
Request for Review of the)
Decision of the)
Universal Service Administrator by)
)
Barre Supervisory Union District No. 61) File Nos. SLD-258042, SLD-558445,
Barre, Vermont) SLD-258749
)
Schools and Libraries Universal Service) CC Docket No. 02-6
Support Mechanism)

ORDER

Adopted: November 4, 2003

Released: November 5, 2003

By the Telecommunications Access Policy Division, Wireline Competition Bureau:

The Telecommunications Access Policy Division has under consideration a Request for Review filed by Barre Supervisory Union District No. 61 (Barre), Barre, Vermont.¹ Barre requests review of a decision by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator).² For the reasons set forth below, we deny the Request for Review.

1 In accordance with the requirements of the Children's Internet Protection Act (CIPA),³ the Commission added a deadline for Funding Year 2001 FCC Forms 486 to be filed no later than October 28, 2001 unless the service began after that date or a funding commitment decision letter was issued after that date.⁴ A Funding Year 2001 applicant with a funding commitment decision letter who failed to meet the October 28, 2001 deadline could obtain discounts only for services received on or after the date that its FCC Form 486 was postmarked⁵

¹ Letter from Stephen T. Bartlett, Barre Supervisory Union District No. 61, to Federal Communications Commission, filed November 12, 2002 (Request for Review).

² *Id.*

³ See 47 U.S.C. §§ 151 *et seq.*

⁴ 47 U.S.C. § 254(h)(5)(E), (6)(E), *CIPA Order*, 16 FCC Rcd at 8188-89, 8191, paras. 10, 18. The implementation meets CIPA's requirement that applicants in Funding Year 2001 make their certifications within 120 days of the start of the funding year.

⁵ See Instructions for Completing the Schools and Libraries Universal Service Receipt of Service Confirmation Form, OMB 3060-0853 (July 2001) at 9 (Form 486 Instructions).

In the decision at issue in this case, SLD reduced discounts for several of Barre's funding requests because the FCC Forms 486 were filed after the October 28, 2001 deadline.⁶ The funding requests, 650213, 649044, and 650912, were reduced to adjust the start of discounts for services to the date the forms were postmarked, rather than on the dates that services actually started.⁷

2. Barre argues that there should be no such reduction because 1) it made a good faith effort to meet the deadline, 2) it was mistakenly under the impression the items would be postmarked on a Sunday, and 3) because a Sunday postmark deadline is not reasonable for such a rural area as that the applicant operates within.⁸ As noted above, the October 28, 2001 deadline was imposed by Congress.⁹ For administrative efficiency and consistency, the Commission applied this deadline to applicants seeking discounts only for telecommunications services.¹⁰ In the funding requests at issue here Barre requested only telecommunications services.¹¹

3. To the extent that Barre is requesting that we waive our rules governing the filing of the FCC Form 486, we deny that request.¹² A waiver can be granted only if waiving the deadline is supported by a showing of good cause.¹³ A deviation from a general rule is not permitted unless special circumstances warrant it and the deviation would better serve the public interest than strict adherence to the general rule.¹⁴ We have held that ultimately it is the applicant who has responsibility for the timely submission of its application. We have also held that misunderstanding our rules does not relieve applicants of their responsibility to understand and comply with the program.¹⁵ We note that the instructions to the FCC Form 486 explicitly

⁶ See Letters from Schools and Libraries Division, Universal Service Administrative Company, to Stephen T. Bartlett, Barre Supervisory Union District No. 61, dated October 18, 2002 (one for FRN 649044 of Application No. SLD-258042, one for FRN 650213 of Application No. SLD-558445, and one for FRN 650912 of Application No. SLD-258445) (collectively Administrative Decision Letters on Appeal), *see also* Request for Review

⁷ Administrative Decision Letters on Appeal

⁸ Request for Review

⁹ *See supra* note 4

¹⁰ *See* Form 486 Instructions

¹¹ *See* Letter from Schools and Libraries Division, Universal Service Administrative Company, to Stephen Bartlett, Barre Supervisory Union, dated August 7, 2001 (Funding Commitment Decision Letter for FRN 649044), Letter from Schools and Libraries Division, Universal Service Administrative Company, to Stephen Bartlett, Barre Supervisory Union, dated July 23, 2001 (Funding Commitment Decision Letter for FRN 650213), Letter from Schools and Libraries Division, Universal Service Administrative Company, to Stephen Bartlett, Barre Supervisory Union, dated August 7, 2001 (Funding Commitment Decision Letter for FRN 650912)

¹² *See* Request for Review

¹³ *See* 47 C.F.R. § 1.3

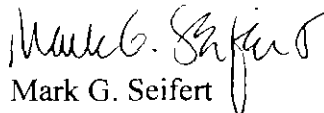
¹⁴ *See Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

¹⁵ *See Request for Waiver by Dermott Special School District, et al., Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-252777, CC

cautioned applicants that the statutorily-required deadline fell on a Sunday, and that applicants should ensure that if they could not obtain a postmark on that date, they should postmark their application on Saturday, October 27, 2001 at the latest.¹⁶ Because Barre has failed to demonstrate circumstances that would warrant waiver of the deadline, we affirm SLD's decision.

4 ACCORDINGLY, IT IS ORDERED, pursuant to authority delegated under sections 0.91, 0.291, 1.3, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.3, and 54.722(a), that the Request for Review filed by Barre Supervisory Union District No. 61, Barre, Vermont, on November 12, 2002 IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION



Mark G. Seifert
Deputy Chief, Telecommunications Access Policy Division
Wireline Competition Bureau

Docket Nos. 96-45 and 97-21, Order, DA 02-642 (Com. Car. Bur. rel. March 19, 2002), *See also Request for Review by Craig County Public Schools, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-241515, CC Docket Nos. 96-45 and 97-21, Order, DA 03-383, paras. 9-11 (Wireline Comp. Bur. rel. February 7, 2003) (inadvertent omission of necessary information from an earlier 486 does not constitute good cause for a waiver).

¹⁶ See Form 486 Instructions at 16 ("You are cautioned that the statutorily-required deadline of October 28, 2001 falls on a Sunday. Therefore, unless you can obtain a postmark for mailing your Form 486 on that day, [you] must postmark the form no later than Saturday, October 27, 2001 in order to meet the deadline.")